

COPY

CHIROPRACTIC PHYSICIANS'
BOARD OF NEVADA

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JUN 1 2007

Wade Wade
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RENO, NEVADA 89502

BEFORE THE CHIROPRACTIC
PHYSICIANS BOARD OF NEVADA

IN THE MATTER OF)
MITCHELL B. KANE, D.C.) CASE NO. 05-08
LICENSE NO.: B781)
Respondent.) AGREED SETTLEMENT OF DISCIPLINARY
ACTION AND ORDER

IT IS HEREBY STIPULATED AND AGREED by and between MITCHELL B.
KANE, D.C. (hereinafter "Respondent"), and the Chiropractic Physicians Board of
Nevada (herein after "Board") by and through its Investigating Member the Board,
Stephanie Youngblood, D.C. (hereinafter "Investigating Member") and the Board's
counsel Elizabeth J. Foley, Esq. as follows:

BACKGROUND

- 1) The Respondent is licensed as a doctor of Chiropractic in the State of Nevada
under license number B-781.
- 2) Respondent has practiced Chiropractic in the State of Nevada under the business
name of Desert Canyon Chiropractic; Victory Management Services LTD. And
Mountain West Chiropractic.
- 3) On or about April 27, 2007, Respondent was issued a Board Complaint which
alleged as follows:

- a) Respondent engaged the services of Deo Thomas to refer to the
Respondent new patients who had been involved in motor vehicle
accidents or otherwise sustained personal injuries; and

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- b) Respondent further remunerated Deo Thomas for referring new patients to the Respondent by paying advertising and telephone expenses of Deo Thomas; and
- c) During 2004 the Respondent paid to Deo Thomas Eighty Five Thousand, Four Hundred Dollars (\$85,400.00) for referrals of patients to Respondent. A monthly breakdown of the payments by Respondent to Deo Thomas for 2004 is as follows:

Dates	Amounts
January, 2004	\$2,000.00
February, 2004	\$1,200.00
March, 2004	\$2,800.00
April, 2004	\$2,800.00
May, 2004	\$2,200.00
June, 2004	\$5,300.00
July, 2004	\$7,700.00
August, 2004	\$14,000.00
September, 2004	\$ 9,800.00
October, 2004	\$11,400.00
November, 2004	\$13,200.00
December, 2004	<u>\$13,000.00</u>
Total for 2004	\$85,400.00

- d) During 2005, the Respondent paid to Deo Thomas Ninety Six thousand

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Dollars (\$96,000.00) for referrals of patients to Respondent. A monthly breakdown of the payments to DeoThomas by Respondent for 2005 is as follows:

Dates	Amounts
January, 2005	\$12,600.00
February, 2005	\$ 3,500.00
March, 2005	\$10,100.00
April, 2005	\$11,400.00
May, 2005	\$ 6,200.00
June, 2005	\$5,400.00
July, 2005	\$7,700.00
August, 2005	\$6,200.00
September, 2005	\$8,400.00
October, 2005	\$7,100.00
November, 2005	\$7,200.00
December, 2005	<u>\$10,200.00</u>
Total for 2005	\$96,000.00

- 4) Respondent filed an Answer to the Board's Complaint on or about May 17, 2007 in which he denied the charging allegations of the Board's Complaint.

JURISDICTION

- 5) Respondent MITCHELL KANE, D.C. was at the relevant times mentioned herein a licensed chiropractor (License Number B-781) and he acknowledges

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1 the Board has jurisdiction over him and the conduct addressed in the Complaint.

2 I

3 **ACKNOWLEDGMENT AND VOLUNTARY WAIVER OF RIGHTS**

4
5 6) Respondent is aware of and fully understands, his right to have a hearing on the
6 allegations set forth in the Complaint, his rights to reconsideration, appeal, and all other
7 rights which may be accorded by the Nevada Administrative Procedure Act, the Nevada
8 Chiropractic Act and accompanying regulations, and the federal and state constitutions.
9 Respondent understands that he has the right to be represented by counsel in this matter
10 at his own expense.

11
12 7) Respondent hereby freely, voluntarily and intelligently, waives the rights
13 enumerated above, and instead chooses to enter into this Agreed Settlement with the
14 Board in accordance with NRS233B.121(5).

15 8) In consideration of execution of this Agreed Settlement, Respondent for himself,
16 his heirs, executors, administrators, successors, and assigns, hereby releases, remises,
17 and forever discharges the state of Nevada, the Board, and each of their members,
18 agents, and employees in their individual and representative capacities, from any and all
19 manner of actions, causes of action, suits, debts, judgments, executions, claims and
20 demands whatsoever known and unknown, in law or equity, the Respondent ever had,
21 now has, may have, or claim to have, or claim to have against any or all of the persons or
22 entities named in this section, arising out of or by reason of the Board's investigation,
23 this disciplinary action, and all other matters relating hereto.

24
25 9) Respondent hereby indemnifies and holds harmless the State of Nevada, the
26
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1 Board, and each of their members, agents, and employees in their individual and
2 representative capacities against any and all claims, suits, and actions brought against
3 said person and/or entities by reason of the Board's investigation, this disciplinary action
4 and all other matters relating thereto, and against any and all expenses, damages, and
5 costs including court costs and attorney fees, which may be sustained by the persons
6 and/or entities named in this section as a result of said claims, suits, and actions.

8 FINDINGS AND CONDITIONS OF AGREEMENT

9 11) Based upon the limited investigation to date and applying the administrative
10 burden of substantial evidence as set forth in State Employment Security vs. Hilton
11 Hotels, 102 Nev 600, 608, 720, P.2d, 498 (1986); and Minton v. Board of Medical
12 Examiner, 110 Nev. 1060, 881 P.2d 1339 (1994) and NRS 233B.135 (3)(e) and NAC
13 634.650(2), but not for any other purpose, the Board's finds that this matter may be
14 resolved on the following terms:
15

16 a) Respondent admits to guilt for engaging in unprofessional conduct as
17 precluded by NAC 634.430 (4)(a) and NRS 634.018 (14) by utilizing the
18 services of Deo Thomas, who was remunerated for referring to the
19 Respondent new patients who had been involved in motor vehicle
20 accidents; and
21

22 b) Respondent shall pay a fine to the Board in the amount of Ten
23 Thousand Dollars, (\$10,000.00) to be paid within 60 days and said
24 amount shall be reported to the National Practitioners Data Bank; and
25

26 c) Respondent shall pay the Board for the costs for investigative and
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1 attorneys fees incurred by the Board through June 1, 2007, estimated to
2 be Twelve Thousand, Five Hundred (\$12,500.00) to date approximately.
3 The costs and fees shall be paid to the Board within thirty (30) days of the
4 approval of this Agreement; and
5
6 d) Pursuant to NRS 634.190(2)(d), Respondent agrees to the suspension
7 of his Chiropractic license for a period of one (1) month beginning June
8 1, 2007. Respondent shall not be present at the premises of his
9 Chiropractic business during normal business hours. Normal business
10 hours are defined as Monday through Friday 8:30 a.m. until 6:00 p.m. and
11 Saturday 9:00 a.m. until 1:00 p.m. However, Respondent may perform
12 administrative services only at the chiropractic business premises
13 between the hours of 11:00 a.m. ~~until~~ 2:00 p.m. and in emergency
14 situations ~~only~~, excluding the provision of chiropractic services; and
15
16 e) Respondent agrees to be placed on probation for a period of three (3)
17 years beginning at the end of the one (1) month suspension. During the
18 three (3) years probationary period, Respondent shall allow a Board
19 Member and/or a Compliance Officer approved by the Board, and/or its
20 agent to enter and inspect at any time his chiropractic facilities and review
21 his patient records including but not limited to new patient and patient
22 contact information, releases, liens, examination reports, treatment
23 records, SOAP notes, superbills, sign in sheets, narrative reports, billing
24 and payment records, receipt books, appointment calendars, and any other
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1 records related to patient care, and all documents and records related to
2 his employment of persons to perform any manner of treatment to his
3 patients, including but not limited to employment applications, payroll
4 records, registration applications, correspondence with the Board training
5 programs and certificates. Further upon request, Respondent must make
6 available copies of any and all agreements with any and all third parties;
7 and
8

9 f) Respondent agrees to take, and pass, the National Chiropractic Board
10 Ethics and Boundaries Examination within one (1) year of the approval of
11 this Agreement; and
12

13 g) Respondent agrees to retake, and pass, the Nevada Law Test given by
14 the Board within one (1) year of the approval of this Agreement; and
15

16 h) Respondent agrees to reimburse the Board, on a quarterly basis, for the
17 costs of hiring a Board appointed Compliance Officer who will physically
18 meet with Respondent and monitor his practice and file a written report
19 quarterly on Respondent's compliance with and adherence to Nevada
20 Statutes, Rules, and Regulations for a period of three (3) years from the
21 end of the suspension; and
22

23 i) Any violation of this Agreed Settlement or Chapter 634 of the Nevada
24 Revised Statutes and Regulations contained in Chapter 634 of the Nevada
25 Administrative Code constitutes grounds for the Board to take
26 appropriate disciplinary action against Respondent.
27
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ACCEPTANCE OF AGREEMENT BY BOARD

11) Respondent understands that the terms of this Agreed Settlement were presented to and were approved by the Board at the duly convened meeting on June 1, 2007.

EFFECT OF COMPLETE AGREEMENT

12) This Agreed Settlement of Disciplinary Action and Order consists of Nine (9) pages and embodies the entire Agreement reached between the Board and Respondent. It may not be altered, amended or modified without the express written consent of the parties.

13) The Board shall retain Jurisdiction in this case until all conditions have been met to the satisfaction of the Board.

14) If the Respondent fails to comply with any of the terms of this agreement, this matter may be brought back before the Board for further action on the Amended Complaint against Respondent on file herein.

DATED this 31st day of May, 2007.



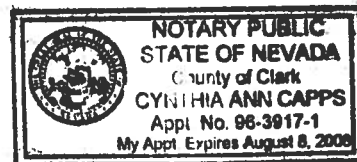
MITCHELL B. KANE, D.C.
Respondent

SUBSCRIBED and SWORN to before me
this 31 day of May, 2007.


NOTARY PUBLIC

APPROVED AS TO FORM & CONTENT


ELIZABETH J. FOLEY, ESQ.
BOARD COUNSEL



1 APPROVED AS TO FORM & CONTENT

2 Dr. Stephanie Youngblood
3 STEPHANIE YOUNGBLOOD, D.C.
4 INVESTIGATING MEMBER

5
6 **ORDER**

7 By a majority vote on June 1, 2007, the Chiropractic Physicians' Board of
8 Nevada approved and adopted the terms and conditions set forth in the Agreed
9 Settlement of Disciplinary Action with MITCHELL B. KANE D.C. Respondent.

10 **IT IS SO ORDERED.**

11 DATED this 1 day of June, 2007.

STATE OF NEVADA CHIROPRACTIC
PHYSICIANS' BOARD OF NEVADA

12 BY Margaret Colucci D.C.
13 MARGARET COLUCCI, D.C.
14 Vice-President, Chiropractic Physicians' Board
15 of Nevada
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August 7, 2007

via facsimile: (775) 688-1920
and U.S. Mail

Ms. Cindy Wade
Executive Director
Chiropractic Physicians' Board of Nevada
4600 Kietzke Lane, Suite M-245
Reno, Nevada 89502

RE: Mitchell Kane, D.C.

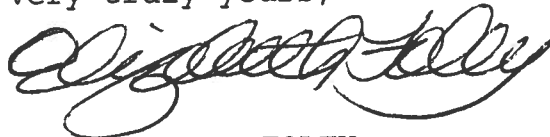
Dear Ms. Wade:

Please be advised that it was stipulated and agreed by and between counsel for Dr. Kane, Thomas Pitaro, Esq., and myself for the Board, that Dr. Kane's suspension would begin June 9th, 2007 and end on July 9th, 2007.

Please advise all concerned parties of this modification to the settlement agreement which was entered into on June 1, 2007.

Should any further clarification be required, please advise me.

Very truly yours,



ELIZABETH J. FOLEY

EJF/m